

Louis S. Ederer (LE 7574)
John Maltbie (JM 3658)
ARNOLD & PORTER LLP
399 Park Avenue
New York, New York 10022
Phone (212) 715-1000
Fax (212) 715-1399

Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

----- X
GUCCI AMERICA, INC.,

Plaintiff,

- against -

JENNIFER GUCCI, JENCO DESIGNS, LLC,
JENNICOR, LLC, JENNY GUCCI COFFEE
AND GELATO COMPANY, INC., VERATEX,
INC., COLLEZIONE DI CASA, INC., E.L.
ERMAN - DEAD SEA COSMETICS CORP.,
ELE BRANDS ENTERPRISE, INC., GBN
WATCH COLLECTION, INC., GBN GLOBAL
BUSINESS NETWORK, EDWARD LITWAK
d/b/a ED LITWAK & ASSOCIATES, GEMMA
GUCCI, GEMMA GUCCI COFFEE AND
GELATO COMPANY, INC., ABC
CORPORATIONS 1-10, and JOHN DOES 1-10,

Defendants.
----- X

Civil Action No. 07 Civ. 6820 (RMB)

**PLAINTIFF GUCCI AMERICA,
INC.'S MEMORANDUM OF LAW
IN SUPPORT OF ITS MOTION *IN*
LIMINE TO PRECLUDE
TESTIMONY OF DEFENDANT
JENNIFER GUCCI
CONCERNING SPOILIATED
EVIDENCE**

EXHIBIT B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

***** X

GUCCI AMERICA, INC.,

Plaintiff,

**DECLARATION OF
JENNIFER GUCCI**

-against-

07 Civ. 6820 (RMB)(JCF)

JENNIFER GUCCI, JENCO DESIGNS, LLC,
JENNICOR, LLC, VERATEX, INC.,
COLLEZIONE DI CASA, INC., E.L. ERMAN-
DEAD SEA COSMETICS CORP., LOUISVILLE
BEDDING COMPANY, EDWARD LITWAK d/b/a
ED LITWAK & ASSOCIATES, ABC
CORPORATIONS 1-10, and JOHN DOES 1-10,

Defendants.

***** X

JENNIFER GUCCI, pursuant to Title 28, United States Code, Section 1746,
declares under penalty of perjury, as follows:

1. My name is Jennifer Gucci. I am a named defendant in this action, and I have personal knowledge of the facts set forth herein.
2. I have been provided with a copy of the Court's Order dated October 24, 2007. This Declaration is respectfully submitted in response to, and in accordance with, that Order.
3. When I was originally asked, in connection with responding to plaintiff's Document Request, and at my subsequent deposition on October 12, 2007, if I had any documents pertaining to this lawsuit, I did not understand that the term "documents" also included e-mails. I understood the term "documents" to mean physical papers of any type, including letters, drawings, and the like.
4. At the time of my responses, I did not believe I had in my possession any "documents" as I then understood that term; and therefore I did not search for documents I knew I did not have. Accordingly, I testified truthfully at my deposition, to the best of my belief at that time, that all such physical papers that I was aware of were in the possession of Ed Litwak, and which I understand have already been produced.

- My
5. In connection with the Court's Order, I have searched ~~by~~ my recollection, as well as my papers, and have come upon a single letter (dated June 27, 2007 from David Elan), which I have forwarded to my attorney to produce.
 6. Furthermore, I now understand that the term "documents" also includes e-mails.
 7. It is my general practice, once I read an e-mail, to delete it. The few e-mails I had not deleted prior to the October 23, 2007, conference with the Court, I forwarded to my present attorney who I understand identified them to the Court during the October 23rd telephone conference with the Court.
 8. I am not adept with a computer. Accordingly, following the October 23rd conference with the Court, I had an individual knowledgeable about computers to attempt to retrieve all e-mails that I had deleted which were still retrievable.
 9. I have provided all such e-mails to my attorney who I understand is providing them to plaintiff's counsel.
 10. It is my understanding that deleted e-mails in my computer are no longer available to be retrieved after six months; according, all e-mails prior to May 2007 are no longer capable of being retrieved from my computer.
 11. I asked the individual who assisted me to contact my Internet Service Provider to ascertain if those deleted e-mails can now still be retrieved by them, which he has done. If we receive a positive response, and obtain the deleted e-mail, they will be produced.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.


Jennifer Gucci

EXECUTED ON THIS 25 DAY OF OCTOBER, 2007.